

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8145 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgement?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

WAGHODIYA GRAM PANCHAYAT

Versus

GUJARAT ENGG AND GENERAL KAMDAR UNION

Appearance:

MR DC DAVE for the Petitioner.

MR JOY MATHEW for Respondent No. 1

RULE SERVED for Respondent No. 2

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 28/08/2001

ORAL JUDGEMENT

1. With the consent of the parties, the matter is
taken up for final hearing today.

2. The petitioner-Panchayat has challenged the Award
passed by the Labour Court, Vadodara in Reference

(L.C.B.) No.17 of 1996. By the impugned Award, the Labour Court has allowed the Reference of the workmen and it was directed that from 1.1.1996, they should be treated as confirmed employees of the Panchayat and benefit on that basis should be given to them. It is an admitted fact that before the Labour Court, the petitioner-Panchayat had not led any evidence nor even filed any Written Statement. Therefore, the oral say of the workmen was accepted by the Labour Court and the impugned Award was passed. Since the Panchayat has not led any evidence nor even reply was filed, it cannot be said that the Labour Court has committed any error in relying upon the evidence of the workmen. In that view of the matter, it cannot be said that there is any jurisdictional error or that the order of the Labour Court suffers from any error apparent on the face of the record. Therefore, the aforesaid Award is not required to be interfered with by this Court.

3. At this stage, Mr.Dave, however, states that since the petitioner would like to approach the Labour Court for setting aside the ex parte Award, he would not like to press this petition. Since the order is ex parte and if the petitioner wants to file necessary application for setting aside ex parte Award, it will be open for the petitioner to apply before the concerned Labour Court. If any such application is made, such application may be decided on its own merits by the Labour Court. So far as this petition is concerned, as stated earlier, even otherwise, on merits, it is not required to be entertained. Since Mr.Dave is withdrawing the petition on the aforesaid ground, permission to withdraw this petition is accordingly granted. Petition is disposed of as withdrawn. Rule is discharged with no order as to costs.

At the oral request of Mr.Dave, the ad interim relief granted earlier by this Court is ordered to be continued upto 15th September, 2001. It is clarified that whether such application is maintainable or not or whether there is any substance in such application, are all questions which are required to be decided by the Labour Court and this Court has not expressed any opinion on the same. As and when such application is made, the Court will decide the same in accordance with law.

28th August, 2001 (P.B. Majmudar, J.)

(apj)